IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.19517 of 1996

DATED 26-3-2007

BETWEEN

B.Jeevan Kumar

.. Petitioner

And

Andhra Pradesh State Warehousing Corporation,
Rep by its Managing Director, Nampally,
Hyderabad.

.. Respondent

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.19517 of 1996

ORDER:

The petitioner seeks to have his services as Draughtsman reckoned for the purpose of calculating the minimum number of years of service required to be put in for being eligible for promotion as Construction Engineer.

The petitioner was appointed as a Draughtsman on 12.7.1977. He was promoted as a Supervisor on 27.4.1981. Later he was posted to officiate as a Construction Engineer on 5.6.1991 and was regularly promoted to the said post on 7.5.1996. The

applicable rules in this regard require a minimum of 5 years of service in the case of Junior Engineers and 15 years of service in the case of a Supervisor with LCE diploma for being eligible for promotion as Construction Engineer. If the 15 years service of the petitioner as a Supervisor is reckoned from the date of his promotion on 27.4.1981, he was entitled to be considered for promotion on completion of 15 years of service i.e. after 27.4.1996 and soon thereafter was, in fact, promoted as a Construction Engineer on 7.5.1996. The petitioner would however seek to have his services as a Draughtsman i.e. from 12.7.1977 to be reckoned for computing the minimum of 15 years of service, in which event, he would have completed the said 15 years of service on 12.7.1992. This claim of the petitioner is based on a similar consideration of one Sri K.Krishna Murthy.

It is necessary to note that the rules relating to promotion in the A.P. Warehousing Corporation are statutory rules and have the force of law. In accordance with the rules, the petitioner was entitled to be considered for promotion only after completing 15 years of service as Supervisor i.e. after 27.4.1996 and was in fact promoted as a Construction Engineer on 7.5.1996. While the respondents would admit that Sri K.Krishna Murthy was given the benefit of having his services as Draughtsman included for computation of the minimum 15 years of service for being eligible for promotion as a Construction Engineer, they would none the less submit that the petitioner's representation in this regard had been considered and since his request to be so promoted was contrary to the rules, his request was rejected.

It is necessary to note that Sri K.Krishna Murthy with whom the petitioner claims parity is not arrayed as a respondent in the writ petition. It is well settled that no direction can be sought from this Court to perpetuate an illegality (**Chandigarh Administration vs. Jagjit Singh**[1]**)**. Even assuming that the promotion of Sri K.Krishna Murthy is contrary to the rules, no relief can be granted to the petitioner contrary to the statutory rules, for that would amount to perpetuating an illegality. In the absence of Sri K.Krishna Murthy being arrayed as a respondent, it is not for this court to examine whether his appointment should be declared illegal or not. Suffice to note that the petitioner cannot claim any such parity in the light of the specific statutory requirement under the Rules of 15 years of service being the minimum required service to be put in before a Supervisor can be considered for promotion as Construction Engineer.

The writ petition fails and is accordingly dismissed. No costs.

RAMESH RANGANATHAN,J

Dt: 26.3.2007

msv.

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[1] (1995) 1 SCC 745